PART 16
ASSETS

Assets: Cash, other liquid resources or real or personal property.

Liquid assets: Cash or other resources that can be converted into cash on demand.

Non-liquid assets: Real or personal property that cannot be converted into cash on demand.

Equity Value: The fair market value of real or personal property minus any encumbrances. Examples of encumbrances are: mortgages, liens, and other debts on or attached to the property.

Fair market value: Amount that can be expected to be received for selling a similar article on the open market in the geographic area involved. The individual may refute the fair market value determined by the Department by providing statements from two credible sources.

Any asset which has no saleable value will not be used in determining eligibility because it has no equity value.

Examples:

- Homes that, due to structural damage, and their location on leased property, have no resale value.
- Vacant property not large enough to be sold due to changes in zoning laws.
- Vehicles, which cannot be sold due to mechanical or other problems.

Ownership: Power, authority or title to sell, exchange, convert or redeem any property. Property in the name of a child is available to both child and parent, as the parent can make it available.

Available asset: An asset that has a value which is legally obtainable by the individual. If there is a penalty for early or late withdrawal to get the asset, the available asset is the amount after the penalty is taken.

Unavailable asset: An asset that has a value which is legally unobtainable to the individual.

Real Estate and other Non-Liquid Assets:
In determining the value of this countable asset, the type of ownership must be established.

If the owners have "joint tenancy", each owner has an equal interest in the total value of the property.

If the owners are "tenants in common", each owner has a share in the property. Generally, each owner can sell that share without the consent of the other owners. If the terms of ownership prohibit sale of one owner's portion or the other owner(s) refuses to agree to sell, the real estate is excluded.

SECTION 1 USE OF ASSETS

Individuals must use their assets to meet their needs before MaineCare will be available. Specific types and amounts may be retained to meet current and future needs. See explanation of specific assets that follow.

If assets are potentially available, applicants, recipients or others acting on their behalf must take action to make them available.

All available assets are to be used in determining eligibility.

Unavailable assets are not to be used in determining eligibility.

SECTION 2 TREATMENT OF ASSETS

Unless specifically indicated as excluded or unavailable, all assets are counted toward the appropriate limit (See Part 4, Section 1 and Part 7, Section 1) whether listed here or not. The following is a list of assets that include the most common types.

For the purpose of this Part, Family - Related categories refer to Part 3 and SSI - Related categories refer to Parts 6, 9 and 11, 12, 13, and 14.

Section 2.1 Agent Orange - *excluded for all categories*

All Agent Orange settlements as provided for under PL 100- 687 and 101-201 are excluded.

Section 2.2 Alaskan Native Claims - *excluded for all categories*

The tax-exempt portions of payments made pursuant to PL 92-203, the Alaskan Native Claims Settlement Act are excluded.

Section 2.3 Annuities - *partially excluded for all categories*

I. <u>Policy applicable to all MaineCare including residential care and long term care</u>

An annuity is an investment on which an individual receives fixed payments for a lifetime or a specified period of time. The annuity may be purchased by the individual or a third party. If the annuity is purchased by other than the individual, the payments are counted as income. There is no countable resource nor is there a transfer of assets.

A. Definitions -

1. Deferred annuity -- this is an annuity under which the benefit payment will begin at some future date. The individual has not yet selected a payment option (life only, ten year period certain, etc.)
2. Annuitized -- this is an annuity under which the individual is receiving a benefit payment under a payment option (life only, ten year certain, etc.) which they have selected.

B. Annuities purchased before 2/8/06

1. The current cash value of the annuity available to the individual, including the principal and interest earned on the principal, minus any penalty fees for withdrawal, is a countable resource.

2. Payments from annuities are considered income to the individual for whom the payments are designated.

C. Annuities Purchased on or after 2/8/06
   1. Payments from annuities are considered income to the individual for whom the payments are designated.
   2. The current cash value of the annuity available to the individual including the principal and interest earned on the principal minus any penalty fees for withdrawal is a countable resource.

II. Policy applicable to long term care -

Applicants for and recipients of Medicaid long term care or residential care coverage must disclose a description of any interest the individual or community spouse has in an annuity regardless of whether the annuity is irrevocable or is treated as an asset. This must be disclosed at the time of initial application and at re-determination.

A. Annuities purchased before 2/8/06 -

If the individual has purchased other than a straight life annuity, a transfer of assets has occurred. This is because the individual has purchased not only a benefit for him/herself but also payments to a beneficiary. The value of the transfer is equal to the difference between the cost of the annuity purchased and the cost of a straight life annuity providing the same monthly benefit. The date of the transfer is the date the payment option is selected and the funds cannot be returned to the individual. To determine if the transfer is subject to a penalty, refer to Part 15.

B. Annuities Purchased on or after 2/8/06 -
   1. An annuity purchased by or on behalf of an annuitant who has applied for Medicaid with respect to long term care services will be treated as a transfer of assets unless:
      a. the annuity is an Individual Retirement Annuity (26 U.S.C. §408(b,q); or
      b. the annuity is purchased with proceeds from
         i. an Individual Retirement Account or a simple retirement account (26 U.S.C. §408(a), (c), or (p) ;
         ii. a simplified employee pension (26 U.S.C. §408(k); or
         iii. a Roth IRA (26 U.S.C. §408); or
      c. the annuity is:
         i. irrevocable and non-assignable; and
         ii. actuarially sound (as determined in the Social Security Administration Life Expectancy Table. This table can be found on the internet at http://www.ssa.gov/OACT/STATS/table4c6.html); and
         iii. provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.
   2. The purchase of an annuity by the individual or the community spouse shall be treated as the disposal of an asset for less than fair market value unless:
      a. the State of Maine is named as the remainder beneficiary in the first position for the total amount of Medicaid paid on behalf of the individual; or

b. the State of Maine is named as such a beneficiary in the second position after the community spouse or minor or disabled child and is named in the first position if such spouse or representative of the child disposes of their remainder for less than fair market value.

Section 2.4 Assets being converted – *excluded for SSI - Related categories*

Assets which are in the process of being converted are exempt during the period they are unavailable.

Examples:

- insurance policies which have been sent to the insurance company,
- property which is being probated and
- stocks which have been submitted for redemption.

Section 2.5 Bank accounts (including savings, checking, money market and certificates of deposit) -

Included are individual and jointly owned bank accounts and other jointly owned liquid assets:

I. Individual Accounts - the funds in these accounts are to be totally available to the individual.

II. Joint Accounts -

A. For all categories

Funds in these accounts are considered to be owned by the individual unless there is proof that funds in the account were contributed by another joint owner of the account.

If the individual claims that s/he does not own the money in the account s/he must provide evidence that this money belongs to the other joint owner(s). Any money in that account which the individual can show was contributed by one of the other joint bank account owners is excluded.

Verification of ownership of the funds may be shown through bank statements, written statement from the source that provided the funds to the account, letters of award showing proof of ownership, or other clear and convincing evidence satisfying the Eligibility Specialist that the money in the account is not available to the applicant or recipient

Any money in the account which, even though contributed by the joint owner, is intended for use by the applicant/recipient (such as a gift) is countable to the individual. The Department will presume this portion is considered as any other available asset unless credible evidence is given showing this was not a gift.

B. For SSI - Related categories only -

When evidence is provided that funds in the account belong to another joint owner, the individual must remove her name from the account or establish a separate account with the funds she does own. This must be done within thirty days of successful presentation of ownership evidence.

a. If it is necessary to obtain guardianship, conservatorship or power of attorney for one of the joint owners, the thirty day count will not begin until the process of obtaining guardianship, etc., is completed. If the Department determines that there is no active pursuit of the appointment, the thirty day count will begin.

The account will be considered owned in equal portions when the two or more joint holders are eligible individuals or couples.

When a joint name is added to the account, funds are considered to be transferred to the joint name added if conditions in Part 15, Section 1.7 (II) are met.

Examples:

1. Mr. and Mrs. Jones have a 33 year old son, John. Because John has to travel a great deal to work he added his parents' names to his savings and checking accounts so they could pay his bills if needed. The Jones' were able to verify that John had deposited from his own money all of the funds in the account and that all of the transactions were for his benefit. They were given thirty days to remove their names from the accounts.

2. Martha Thompson has a joint checking account with her daughter, Jane. Jane has POA for her mother. Jane's paychecks ($1400 monthly) and Martha's Social Security check ($600) both go into this account. They live together and split expenses. Jane does not need to invoke her POA to access the money in the account. Since only 30% of the money going into the account is from Martha's income, only this percentage of the total balance is considered to be hers. Martha will have thirty days to remove Jane's name or to establish an account of her own, with her portion of the funds.

III. Other jointly owned liquid assets -
A distinction is made between jointly owned bank accounts and other jointly owned liquid assets, such as stocks and bonds.

For other types of jointly owned liquid assets, each joint owner owns an equal share of the asset. For example, if there were 3 joint owners each would own a one-third interest in the asset.

Example:
Two sisters are applying for assistance. They have stocks left to them by their brother. This is verified by a copy of his will. Instead of the entire value being counted by each, one half of the value counts for each sister.

If the individual or couple establish that other joint owners refuse to sell jointly owned property, the value of the asset is excluded. This exclusion does not apply if any joint owner has the ability to convert the jointly owned asset to cash without the permission of the other owners or if the joint owners are a couple. See the policy on transfers for a possible transfer penalty the individual has established joint ownership.

Section 2.6 Burial Contracts/Spaces/Funds

Excluded for all categories -

I. Prepaid burial contracts (mortuary trusts) set up before 3/1/06, regardless of value.

II. Prepaid burial contracts (mortuary trusts) set up on or after 3/1/06, are excluded so long as either the contract is less than or equal to the statewide average for burial and funeral costs of $12,000. If the contract is for more than $12,000 then the estate of the Medicaid recipient must be named the beneficiary of any funds remaining after payment of funeral and burial charges.

III. Burial spaces intended for the use of the individual, spouse or other member of the immediate family, are an excluded asset

For SSI - Related categories only -

I. Separate identifiable account for their burial expenses.
   A. For each individual exclude up to $1500 set aside in a separate identifiable account for their burial expenses as long as the individual does not have a total of $1500 in all of the following funds:
      - prepaid burial
      - excluded face value of whole life insurance
      - cash value of counted whole life insurance policies
      - prepaid burial contract
   B. In order to be excluded as "funds designated for burial", funds held as cash, (i.e., bank accounts or certificates of deposit), must be separately identifiable as a different account and cannot be co-mingled with non-burial related funds.
   C. The funds are excluded as burial funds effective the month in which they are separated.
   D. Once this money is considered a designated burial fund certain conditions must be met:
      1. there must be documentation in the case to show that no transactions are made to the asset except for the posting of interest and the addition of funds.
      2. any interest accrued is excluded as income or asset as long as the individual remains continuously eligible for MaineCare and no withdrawals are made from the fund. Interest on these funds is excluded even if the total amount of the original designated funds plus the accumulated interest exceed the $1500 limit.

         Examples:

         - The individual indicates that a savings account of $1450 has been set aside for burial. At the time of the next review, the savings account has increased due to accumulated interest to $1563. The entire savings account continues to be an excluded asset and the interest is not considered income.

         - Several months later, the individual becomes ineligible for MaineCare. If the individual reapplies and continuous coverage does not exist, up to $1500 of the designated burial funds and accumulated interest since the original designation can be excluded as an asset.

E. At time of review, if burial funds have been co-mingled with non-burial related funds, the individual must be given an opportunity to separate the funds before they are counted as a resource. The funds must be separated by the end of the month that is two months after the month of review in which the individual is advised of the need to separate the funds.

Example:
If the review is due 9/07 the individual should be advised that funds must be separated by 11/30/07. If they are not, the exclusion does not apply unless the reason for non-separation is beyond the control of the individual.

F. Determine whether the separate identifiable account can total $1500 as follows:
1. Term insurance is excluded as an asset and does not count against the $1500 limit.
2. For each individual deduct the amount of any prepaid burial contracts from the $1500 limit.
3. If the face value of whole life insurance has been excluded, deduct the amount of the face value from the $1500 limit (See Section 2.27 of this Part).
4. If an individual's whole life policies are not excluded then deduct the cash value from the $1500 limit. If there is a loan against the policy, deduct the net cash value from the $1500 (See Section 2.27 of this Part).

Examples:
- The individual has one insurance policy with a face value of $1600 and a cash value of $1300. There are no prepaid burials. The policy can be considered a $1300 designated burial fund.

- The individual has one insurance policy with a face value of $1600 and a cash value of $1800. There are no prepaid burials. The policy can be considered a $1500 designated burial fund. The remaining $300 cash value is added to the other countable assets.

- The individual has one insurance policy with a face value of $1600 and a cash value of $1700. There is a prepaid burial plan for $500 as well. Only $1000 of the cash value can be considered a designated burial fund as the allowable limit of $1500 is offset by the $500 prepaid burial. The remaining cash value of $700 is added to other countable assets.

$ 1700	Cash surrender value of whole life insurance policy
+ $ 500	Add: Prepaid burial contract

$ 2200	Total
- $ 1500	Maximum exclusion
$ 700	Countable asset

Section 2.7 Certificates of Deposit - *countable for all categories*

The amount of the countable asset is the proceeds available to the individual or couple if they were to cash in the certificate now, minus penalties for early withdrawal. Taxes are not treated as a penalty.

Section 2.8 Commercial Transportation Tickets - *excluded for SSI-Related categories*

The value of a domestic commercial transportation ticket received as a gift by an individual (or his or her spouse) and not converted to cash will be excluded in the determination of the individual's assets. Domestic travel is defined as travel among the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Northern Mariana Islands.

Section 2.9 Continuing Care Retirement Communities (CCRC) / Life Care Community (LCC) – *partially excluded for SSI - Related categories*

Admission contracts offer a range of housing and health care services to serve older persons as they age and as their health care needs change over time. CCRC's generally offer independent living units, assisted living, and nursing facility care for persons who can afford to pay the entrance fees. These facilities are paid primarily with private funds, but a number also accept Medicaid payment for nursing facility services. In order to operate in the State of Maine, this type of facility must have permission from the Bureau of Insurance and be licensed by the Department of Health and Human Services.

As of 2/8/06, the CCRC and LCC facilities that accept Medicaid payment are allowed to require in their admissions contracts that residents spend their resources, declared for the purposes of admission, on their care before they apply for Medicaid. With this in mind, an applicant for Medicaid who has resided in such a community must provide a copy of their admission contract as part of their Medicaid application. If there is an additional contract related to their entrance fee, that must be provided also. If the contract provides for a lifetime care agreement, the applicant will be ineligible for Medicaid.

The individual's entrance fee in a CCRC or LCC shall be considered an available asset for the purposes of Medicaid eligibility to the extent that:

I. the individual has the ability to use the entrance fee, or the contract provides that the entrance fee may be used, to pay for care should other resources or income of the individual be insufficient to pay for such care.

II. the individual is eligible for a refund of any remaining entrance fee when the individual dies or terminates the contract and leaves the facility; and the entrance fee does not confer an ownership interest in the CCRC or LCC.

For applicants with community spouses, only that part of the entrance fee that is not protected for by the community spouse's resource allowance would be considered a countable asset.

Section 2.10 Disaster Relief Act - *excluded for SSI - Related categories only*

Assistance received under the Disaster Relief Act of 1974 (PL 93-288), or other assistance provided under a federal statute because of a catastrophe which is declared to be a major disaster by the President of the United States, is excluded in determining countable resources:

I. for a period of nine months from the date of receipt;

II. interest earned on the assistance is excluded from resources for a period of nine months beginning on the date the assistance is received; and

III. the initial nine month period will be extended for a reasonable period up to an additional nine months when it is found the individual has good cause for not having necessary repairs or replacement of damaged or destroyed property completed. Good cause exists when circumstances beyond an individual's control prevented the repair or replacement of such property within the nine month time period.

Section 2.11 Disaster Unemployment Assistance – *excluded for all categories*
Disaster Unemployment Assistance authorized in P.L. 100-707, U.S.C. Section 5155(d) (1988) is excluded. This is paid to an individual unemployed as a result of a major disaster.

Section 2.12 Earned Income Tax Credit (EITC) – *excluded for Family - Related categories*
Excluded for the month of receipt and the following month.

Section 2.13 Energy Assistance (Other than HEAP) - *excluded for all categories*
Any other benefits paid through federal laws to eligible households for the purpose of providing energy assistance is excluded.

Section 2.14 Escrow Accounts - *excluded for all categories*
Escrow accounts set up by the U.S. Department of Housing and Urban Development (HUD) for families who are participating in the Family Self Sufficiency Program are not considered a countable resource.

Any interest paid on these accounts is not countable income. As long as the individual is receiving any state, federal or other public assistance for housing they cannot access this amount.

This program is a five year program open to all Section 8 housing participants which aims to help the family to become self-sufficient at the end of the five year period.

When the account becomes available, it is counted as a resource and/or interest income.

Section 2.15 Experimental Housing Allowance Payments - *excluded for Family - Related categories*
Payments made under Annual Contributions Contracts entered into prior to 1/1/75, under Section 23 of the US Housing Act of 1937, as amended.

Section 2.16 Food Produced for Home Consumption – *exclude for all categories*
Food produced in home farming for consumption by the assistance unit is excluded.

Section 2.17 Governor Baxter School for the Deaf Compensation - *excluded for all categories*

One time cash payment from the Governor Baxter School for the Deaf Compensation Authority. Interest on this compensation is excluded as income and any accrued interest is excluded as an asset.

Section 2.18 Grants, Loans, and Scholarships

I. Administered by Commissioner of Education – PL 90-575 – Title V -
The grants and loans are:

- Basic Education Opportunity Grant Program (Pell Grants)
- National Direct Student Loan program (Perkins Loans)
- Supplemental Education Opportunity Grant Program (SEOG)
- Guaranteed Student Loan Program
- State Student Loan Program

A. Family - Related categories – *exclude all*
B. SSI - Related categories – *exclude for all undergraduates and exclude only tuition and fees for graduate students*

II. All other grants/loans/scholarships -
A. Family - Related categories – *exclude tuition and fees*
B. SSI - Related categories – *exclude tuition and fees for undergraduates and count for all other students*

Section 2.19 Home Energy Assistance Program (HEAP) – *excluded for all categories*

Benefits paid to eligible households under the Home Energy Assistance Act of 1980, Title III of PL 96-223 (LIHEAP) is excluded.

Section 2.20 Household Goods – *excluded for all categories*

Items used in day-to-day living such as clothing, household furnishings, utensils, home and property maintenance tools and equipment, heirlooms, wedding and engagement rings, basic jewelry.

Section 2.21 Housing Act Assistance – *excluded for SSI - Related categories*

Effective 10/1/76 the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or Title V of the Housing Act of 1949 as provided by section 2(h) of PL 94-375.

Section 2.22 HUD Community Development Block Grant - *excluded for Family - Related categories*

HUD community development block grant funds received to finance the rehabilitation of privately owned residences. Individuals receiving a grant are precluded by HUD regulations from using grant monies for purposes other than major property repairs or capital improvements. Payment is by check made payable either directly to the contractor or jointly to the contractor and property owner.

Section 2.23 Individual Development Accounts (IDA) - *excluded for all categories*

An IDA is a special bank account that is set up by or for the individual to allow the individual to accumulate funds for specific purposes.

There are two types of IDA's in Maine: a Family Development Account (FDA) for TANF recipients and a Demonstration Project IDA which is available to anyone. The Demonstration Project IDA is also known as Assets for Independence Act (AFIA) IDA. Individual contributions to either IDA are matched by state and/or federal funds.

I. Family Development Account (FDA for TANF recipients) -
   A. Any income used by the individual to fund this account is excluded as income.
   B. Any asset used by the individual to fund this account is excluded as an asset including up to $10,000 of lump sum income remaining in the month following receipt.
   C. Any individual contributions that are matched are excluded as income or asset.
   D. Accrued interest on FDA funds is excluded as income or asset.
   E. Withdrawals from these accounts at any time must be used for the following purposes in order for the fund to remain an exempt asset. When withdrawals are used for any other purpose this will result in the fund being considered a countable asset effective the month of the withdrawal. The TANF Program determines if this condition is met.
      1. expenses for education or job training to attend an accredited or approved post secondary education or training institution;
      2. the purchase or repair of a home that is the primary residence;
      3. the purchase or repair of a vehicle used for transportation to work or to attend an education or training program;
      4. capital to start a small business for any member of the assistance unit 18 years of age or older;
      5. health care costs of a member of the assistance unit that are medically necessary and that are not covered by public or private insurance;
      6. to address an emergency that may cause the loss of shelter, employment or other basic necessities; or
      7. to address other essential family needs approved by the Department.

I. Demonstration Project Account (AFIA) -
   A. any income used by the individual to fund an AFIA is excluded as income.
   B. any individual contributions that are matched are excluded as income or assets.
   C. accrued interest on AFIA funds is excluded as income or assets.
   D. withdrawal from these accounts is allowable only for certain reasons as determined by the agency authorizing this IDA. These reasons include post- secondary educational expenses, acquiring a residence, or expenditures for operating a business.

Section 2.24 Insurance Settlements – *partially excluded for all categories*

Portions of insurance settlements earmarked and used, or intended to be used for specific purposes, are exempt for 6 months from date of receipt. Examples are back medical bills and attorney and legal fees associated with the settlement.

Verification of use, or intent to use, may be shown through verbal or written statements from those providers to whom the individual owes money associated with the settlement. For example, unpaid medical bills or attorney fees.

Portions of insurance settlements not specifically earmarked and used or intended to be used for specific purposes are income in the month received and any remaining portion is an asset in the following month.

For specific information regarding accident and injury settlements when the individual was on MaineCare see Part 2, Section 6.

For settlements associated with the replacement of an excluded asset, see Section 2.42 of this Part.

Section 2.25 JTPA and Job Corps – *excluded for Family - Related categories*

All JTPA or Job Corps payments except on-the-job training income of an individual, at least 19 years old, who is not a dependent child.

Section 2.26 Life Estate - *countable for all categories*

A "life estate" is ownership of real property. Ownership is limited to the term of life, usually that of the owner of the life estate, and may have other conditions attached such as occupancy.

Life estates can be acquired by inheritance or by purchase, or can be retained when property is sold, such as when the individual sells the right to ownership after death and retains the right to ownership during their lifetime.

The monetary value of a "life estate" and the "remainder" must be established so that the applicant's assets or transfer of assets can be properly valued.

To establish the value of the property rights, refer to Appendix E.

Using the individuals' age, find the amount in the first column, "Life Estate", and multiply it by the current fair market value of the property. The result is the current value of the life estate owned by the individual. This is a countable asset but can be exempted with an intent to return if the real property is the primary residence.

Section 2.27 Life Insurance

Term life insurance is an excluded asset since it has no cash value.

I. Policy applicable to Family - Related categories -

The cash surrender value of life insurance is excluded.

II. Policy applicable to SSI - Related categories -

Life insurance is excluded as long as the combined face value of all whole life policies owned by the individual on the same insured does not exceed $1500. If the total face value of all whole life policies owned by the individual on the same insured exceeds $1500, then the cash values, minus any outstanding loans, is counted against the asset limit. A portion of the cash value may be excluded for burial purposes (See Section 2.6 of this Part).

Examples:

1. An individual has a face value life insurance policy of $1000 and one for $500. Even if the cash value exceeds $1500, these are

excluded.

2. An individual has a $2000 face value whole life policy. The cash value is $1790. This results in assets of up to $1790 counted against the asset level. Also see Section 2.6 of this Part for potential exclusions for burial purposes.

3. An individual has a $2000 face value whole life policy. The cash value is $1790 but there is a $500 outstanding loan against the policy. This could result in an asset of up to $1290 ($1790 minus the $500 loan) counted against the asset limit (See Section 2.6 of this Part regarding exclusions for burial purposes).

4. An individual owns a policy on himself that has a $1000 face value and owns a policy on his wife with the same face value. Even though both policies are owned by the individual they are exempt because the total face value on each insured is under $1500.

Section 2.28 Life Lease (Tenancy) - *excluded for all categories*

This is a contract arrangement to live in a certain place, usually for the term of life. It is not ownership and therefore is not a countable asset.

Section 2.29 Loans – *excluded for all categories*

Money borrowed by an individual is not counted as either an asset or income for the month received. Any remainder is considered an asset in the following month.

Written statements from both the individual and the party lending the money must be obtained indicating that the funds are a loan, the amount and the plan for repayment. Without verification of the loan the funds will be considered a gift and treated as a lump sum (See Section 2.30 of this Part).

Section 2.30 Lump Sum Payments – *partially excluded for all categories*

Income that has accumulated and is received in one payment by the individual is considered a lump sum. This includes Worker's Compensation, Retroactive Social Security payments, Unemployment Benefits received retroactively due to the result of a hearing, and Veteran's Benefits. Gifts, inheritances, lottery winnings and insurance settlements are also considered to be a lump sum payment.

Lump sum payments are counted as income in the month received, and any remaining the next month are counted as an asset. SSI lump sum payments are excluded income.

<u>Policy applicable to SSI - Related categories</u>

SSI or Social Security retroactive payments are excluded as an asset for nine months. After that, any portion remaining becomes a countable asset.

Section 2.31 Native American payments

<u>Excluded for all categories</u> -

I. Any payments distributed per capita to or held in trust for members of any Indian tribes under PL 92-524, 93-134, 94-540, 97-458 or 98-64.

II. Receipts distributed to members of certain Indian tribes referred to in Section 5 of PL 94-114, effective 10/17/75, and PL 98-123 and 98-124, effective 10/13/83.

III. Any income or assets accruing to members of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians pursuant to PL 96-420 (the Maine Indian Claims Settlement Act of 1980).

IV. The tax exempt portions of payments made pursuant to PL 93-203, the Alaskan Claims Settlement Act.

Excluded for SSI - Related categories -

I. Native American payments as detailed in Title 20 CFR, Part 416 Appendix to Subpart K (IV)(b) and (c).

II. Per capita distribution payments, receipts from trust lands and dividend payments to members of various native American and Indian tribes such as Blackfeet, Gros Ventre, Grand River Band, Alaskan Native Claims Settlement Act under the provisions of Distribution and Judgement Funds (PL 92-254 Sections 4, 6, and 7), Receipts from Lands Held in Trust for Indian Tribes (PL 94114, Section 6).

Any assets accruing to members of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians pursuant to PL 96-420, the Maine Indian Claims Settlement Act of 1980.

Section 2.32 Nazi Persecution Payments - *excluded for Family - Related categories*

Payments made to victims of Nazi persecution under Public Law 103-286 (Nazi Persecution Victims Eligibility Benefits).

Section 2.33 Nutrition and Food Assistance – *excluded for all categories*

The value of food assistance received under the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended (PL 92-433 and PL 93-150). Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended.

The value of benefits received under the Food Supplement Program (formerly Food Stamps) or Donated Commodities is excluded.

Section 2.34 Pension Plans (Individual and Employee) - *excluded for SSI - Related categories*

Earnings can be set aside in individual or employee pension plans, such as Simplified Employee Pension Plan (SEP), Individual Retirement Account (IRA), Keogh Plan or Deferred Compensation Plan. Each particular plan sets forth regulations governing accumulation and availability of funds. Often monies can be obtained upon demand although penalties for early withdrawal may decrease the asset value. Withdrawals may be taken as a lump sum, annuity or periodic income, or as with Deferred Compensation Plans the funds cannot be obtained until retirement or termination of employment. There is often a waiting period after retirement or termination during which funds are not available.

Funds are a countable asset at the point they are made available.

Section 2.35 Promissory Notes and Mortgages – *countable for all categories*

I. Policy applicable to all MaineCare including residential care and long term care -

A mortgage is a pledge of property to a creditor as security for the obligation or repaying a debt (note).

A note is a written promise to pay or repay a specific amount of money at a stated time. The note specifies conditions such as the amount to be paid, frequency of payments and interest rate.

The note, to be enforceable, and therefore to be of any value, needs to be signed by the debtor and needs to identify, in a complete and precise manner, the obligations to repay.

The presumed value of the note is the principal to be repaid minus any repayments on principal that have been made.

The presumed value can be refuted by obtaining a statement from two sources in the business of buying notes, such as a mortgage company. The statement should identify the amount the source would presently pay for the note and describe the basis for that amount.

The current value of the note then becomes the current sale value. If different sale values are obtained, the higher amount will be used.

II. Policy applicable to long term care -

A transfer of assets occurs when the current sale value of the note is established at less than the presumed value. The amount of the transfer is the amount by which the presumed value exceeds the current sale value. The date of the transfer is the date the note was signed by the debtor. (See Part 15 for treatment of asset transfers.)

As of 2/8/06, funds used to purchase a promissory note, loan or mortgage can be considered a transfer of assets (see Part 15) unless the note, loan or mortgage:

A. has a repayment term that is actuarially sound (as determined in accordance with actuarial publications of the Social Security Administration, found online at: http://www.ssa.gov/OACT/STATS/table4c6.html)
B. provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made; and
C. prohibits the cancellation of the balance upon death of the lender.

In the case of a promissory note, loan or mortgage that does not meet the conditions in A, B, and C. above, the value of the note, loan or mortgage to be considered in determining the amount of the asset transfer shall be the outstanding balance due as of the date of the individual's application for Medicaid.

Section 2.36 Property used for home consumption - *excluded for all categories*

All property and equipment used to produce goods or services for home consumption. This includes garden plots, wood lots and livestock.

Section 2.37 Property used to produce income - *excluded for all categories*

Property and equipment used in the production of income includes real property, boats, trucks, machinery and livestock. This also includes garden plots, wood lots and rental property that are income producing and liquid assets used as part of a business or trade.

I. With eligibility decisions effective before 3/1/06, all property and equipment which is used to produce income is exempt. This property/equipment will continue to be excluded when it is precluded from use because of a temporary disability or any other reason beyond the control of the individual as long as resumption of income production is likely.

II. With eligibility decisions effective 3/1/06, income producing property and equipment can be excluded as a countable asset as long as, after three years of operation, the property produces countable income that equals or exceeds 4.04%, which is the average interest rate for a twelve month Certificate of Deposit (CD) at banks in Maine.
   - A. Countable income is income that is produced by the property and/or equipment as determined by the MaineCare rules for treating income (See Part 17, Section 3.8).
   - B. To determine if the countable income equals or exceeds 4.04%:
     1. Multiply 4.04% by the fair market value of the property and/or equipment minus encumbrances.
     2. Countable income must at least equal the result in (1.) in order for the property and/or equipment to be excluded as an asset.
   - C. If the countable income has changed considerably in any year, countable income is averaged for the last three years.
   - D. The test for income producing property to be an excluded asset is applied only after the property and/or equipment has three years of operation.

III. Income producing property is excluded as a countable asset regardless of the annual rate of return if:
   - A. The property cannot be used due to circumstances beyond the control of the individual and resumption of income production is likely.
   - B. The property cannot be used due to the inability of the individual to use the property for up to twenty-four months.
   - C. The individual is temporarily disabled and resumption of income production is likely.
   - D. The property has not been in operation or production for three years or more.
   - E. The owner is making good faith efforts to sell the property at a reasonable price.

Section 2.38 Radiation Exposure Compensation Act – *excluded for all Family - Related categories*

Money received under the Radiation Exposure Compensation Act for injuries or death resulting from radiation due to nuclear testing and uranium mining.

Section 2.39 Real Property

With the exception of the exclusions below real property is a countable asset.

I. All real property may be excluded if:

   A. it is up for sale at fair market value with a Realtor or actively being advertised by the owner in the geographic area of the property. If reasonable offers are turned down, no exclusion will be given. A reasonable offer is one, which reflects the price on the open market given the condition and location of the property.

   B. two different knowledgeable sources in the geographic area agree that the property cannot be sold due to a specific condition.

   C. it is held in Joint Tenancy or Tenants in Common with others who refuse to sell the property. A statement from the joint owner is required or documented evidence that such a statement was asked for but not provided.

   D. it meets the criteria of Income Producing Property defined in Section 2.37 above.

II. Primary Residence -

   A. <u>Policy applicable to all MaineCare categories, including residential care and long term care</u> -

   The home which the individual considers their primary residence and the land and all buildings on that land are exempt. This exemption also applies to any adjoining land as long as it is not separated by real property owned by others. Presence of any easement, road, waterway or other natural boundary does not change the exemption.

   The home is exempt during periods of temporary absences of the individual, spouse or dependent as long as they indicate their intent to return. (i.e. nursing home care, boarding home, hospitalization, visiting, etc.) Except for visiting, a written statement of intent to return must be submitted. If the client is unable to make this statement, someone acting on the individual's behalf, such as the individual's guardian, conservator or holder of Power of Attorney may do so.

   Once a declaration of intent is made it is valid until an intent not to return home is declared. At that time the home would become a countable asset on the first day of the month after the month in which the declaration is made.

   > **Note:** Except for migrant workers (Part 2, Section 4), when a primary residence is located out of state, it cannot be exempted as a countable asset on the basis of an intent to return home. This intent to return to an out of state residence is inconsistent with the residence requirement which is that the individual be living in Maine and intend to remain here.

   B. <u>Policy applicable to SSI - Related categories</u> -

   The home is exempt if occupied by the spouse or dependent of the individual. A dependent is someone who is financially or medically dependent on the individual. This person is or could be claimed as a dependent for IRS purposes.

C. Policy applicable to Long Term Care -

Effective with applications for Medicaid for long term care services submitted on or after 1/1/06; the individual shall not be eligible for long term care assistance if the individual's equity interest in their primary residence exceeds $750,000. This rule is also effective for re-determinations of eligibility made for those applicants whose initial application was on or after 1/1/06.

To determine the equity interest an individual has in their primary residence, consider the following:

1. The Department needs to see a statement of fair market value such as a recent appraisal from an individual or company licensed to do so.
2. The amount of an individual's equity interest in their home is equal to the current market value of the home minus any encumbrances, such as a mortgage or other loan that is secured by the home. (Not including a home equity line of credit that has not been utilized.)
3. A reverse mortgage or a home equity loan outstanding on the property would decrease the equity, but The Department must examine the mortgage or home equity note to see if there has been a transfer of assets.
4. The Department must see loan documentation to verify that it is a valid transaction with a company in the business of providing home loans or a private individual.
5. This rule does not affect an individual's eligibility for community MaineCare services if otherwise eligible.

The rule does not apply if the spouse of the individual, or dependent, or disabled child of the individual is lawfully residing in the home.

III. For real property not exempted above the equity value of that property is counted. The value of real property is established by statements from two real estate appraisers or town tax valuation adjusted to 100% valuation rate. If jointly owned the countable asset is the proportion of ownership interest in the real property.

Example:
A piece of land is left to an individual and his two sisters. Although there are three owners, the will indicated that one half of the property is owned by the individual. Therefore, one half of the equity becomes a countable asset unless otherwise excluded.

Section 2.40 Relocation assistance

I. *Excluded for all categories* -
Payments made under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

II. *Excluded for Family - Related categories* -

Relocation assistance allowances under the Federal Aid Highway Act of 1968

Section 2.41 Reparation Payments – *exclude for SSI - Related categories*
Japanese Restitution Payments and German Reparation Payments are excluded.

Section 2.42 Replacement of an excluded asset – *excluded for SSI - Related categories*
Cash received or in-kind replacement received to replace or repair an excluded asset that is lost, stolen or damaged is excluded for a period of nine months. An additional nine months can be given when circumstances beyond the individual's control prevented the replacement or repair of the asset.

Example:
The individual has a motor vehicle that was excluded as his primary vehicle under Section 2.53 of this Part. The vehicle was involved in an accident. The insurance company gives the individual a check to replace the vehicle. The individual has nine months in which to purchase another vehicle or repair the damaged one. If at the end of the nine month period the individual still has the money, it will be counted against the asset limit.

Section 2.43 Reverse Mortgage – *excluded for all categories*
Proceeds from a reverse mortgage are treated as proceeds of a loan and are not income. Any proceeds available in the month following the month of receipt are a countable resource. This arrangement allows the homeowner to borrow, via a mortgage contract, a percentage of the appraised value of his/her home equity.

The homeowner receives a periodic payment (or a line of credit) which does not have to be repaid as long as the borrower lives in the home. In most reverse mortgages the original loan does not have to be repaid until the homeowner dies, sells the home, or moves.

Section 2.44 Ricky Ray Hemophilia Relief Fund Act – *excluded for all categories*
Payments received under the Ricky Ray Hemophilia Relief Fund Act of 1998. Interest income generated on these payments is countable income and any accrued interest is excluded as an asset. These payments are not subject to special rules on trusts or transfer of resource penalty. Payments are not counted in determining cost of care.

Section 2.45 Savings Bonds – *countable for all categories*
These are countable to the extent of their current cash value. New bonds have no cash value for six months from the date of issue.

If they are jointly owned, the amount to be counted is based on the proportion of ownership interest. If the joint owners (indicated by "and" on the bonds) refuse to sell, then the bonds are unavailable as an asset to the assistance unit.

Section 2.46 Savings Exclusion - *excluded for all categories, except State Supplement*
Up to $8,000 of savings for an individual, $12,000 for an assistance unit of two or more. Any amount over the excluded amount is counted toward the asset limit. Savings is defined as an account which earns interest or dividends except that a checking account does not need to earn interest/dividends. "Savings" includes:

- savings or checking account including those in a credit union;
- IRA;
- Keogh;
- available cash value of an annuity;
- stocks;
- bonds;
- mutual funds; and
- cash surrender value of life insurance.

The $8,000/$12,000 exclusion applies to all accounts subject to the exclusion. The exclusion is not applied to each account.

Section 2.47 Self-Support Plans for Blind or Disabled Individuals - *excluded for SSI - Related categories*

Any asset necessary to carry out an approved plan for achieving self-support for a blind or disabled individual is excluded. The plan must be approved by the Bureau of Rehabilitation Services or the Social Security Administration.

Section 2.48 Stepparent Assets

Family - Related categories -

Assets owned solely by the stepparent are excluded unless the stepparent is a member of the assistance unit. This does not include any amount given to the unit (such as a gift). This portion is considered as any other available asset. Assets owned solely by the stepparent are excluded even if the legal parent is a member of the unit.

SSI - Related categories -

Assets owned solely by the stepparent are excluded.

Section 2.49 Stocks, Bonds and Mutual Fund Shares - *counted in all categories*

The value of these assets is determined by multiplying the number of shares by the current value per share. Since the amount indicated on the certificates may be less than actually owned (due to stock splits and reinvestment of dividends) it is important to establish, with the company or broker, the actual number of shares.

If the shares are owned jointly with others (other than the spouse) then the amount of the countable asset is based on the proportion of ownership interest the individual or couple has.

If signatures are required by the other joint owners, in order for the shares to be sold and the joint owners refuse to sell, then the value of these shares is unavailable as an asset to the assistance unit.

If a decision is made to sell the shares, the value is excluded from the time a formal request is made until the proceeds of the sale are dispersed to the individual or couple by the company or broker.

Section 2.50 Supplemental assistance – *excluded for Family - Related categories*

Assistance such as General Assistance, provided by public or private agencies to help recipients and applicants meet emergency situations.

Section 2.51 Susan Walker Settlement – *excluded for all categories*

Payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corp., et al, and payments made pursuant to a release of all claims in a case that is entered into in lieu of the class settlement.

When payments are made in lieu of a class settlement, the agreement must be signed by all parties on or before 12/31/97 or 270 days after the date on which a release is first sent to the persons to whom the payment is to be made.

Section 2.52 Trusts – *partially excluded for all cate*gories

A "trust" includes any legal instrument or device that is similar to a trust.

There are special provisions for the treatment of assets placed in a trust. The term "asset" includes income as well as resources. Application of the trust provisions govern the treatment of assets in the trust.

A payment from a trust is any disbursal from the corpus of the trust or from income generated by the trust. A payment may include cash as well as non-cash or property disbursements, such as, the right to use and occupy real property.

For trusts established on or before 8/10/93 for services provided on or before 4/30/94 refer to Appendix H.

The following rules are effective for trusts established on or after 8/11/93 for Medicaid provided on or after 5/1/94.

I. <u>Trusts established by the individual</u> -

A. Special rules apply to the treatment of trusts established by the individual. These rules apply without regard to:
   1. the purposes for which the trust is established;
   2. whether the trustees have or exercise any discretion under the trust;
   3. any restriction on when or whether distributions may be made from the trust; or
   4. any restrictions on the use of distributions from the trust.

B. A trust is considered to be established by an individual if the assets of the individual were used to form all or part of the corpus of the trust and if any of the following entities and/or individuals established the trust other than by will:
   1. the individual;
   2. the individual's spouse;
   3. a person, including a court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse or with legal authority to act in place of or on behalf of the individual or the individual's spouse.

   When a trust corpus includes assets of someone other than the individual, these rules apply only to the individual's portion of the trust assets. The individual's countable income and resources must be prorated based on the proportion of the individual's assets in the trust to those other persons.

C. When a trust is set up as of 3/1/06 as part of a negotiated settlement of the individual or his/her spouse, the trust is considered to be set up by the individual and is not a third party trust. A 'negotiated settlement' is one in which the individual as defined above and others confer, bargain, or discuss with the view of reaching an agreement. Examples of a negotiated settlement are: a divorce or an insurance settlement. Any funds transferred to a trust as a result of a negotiated settlement, are considered to be funds that are owned by and transferred by the individual.

D. Revocable Trusts - are trusts which can, under state law, be revoked by the individual or an entity in (B) above or a court. It includes a trust which ends if some action is taken by the individual.

In the case of a revocable trust:

1. the entire corpus and the income produced by the corpus of the trust is considered a resource available to the individual;
2. payments from the trust to or for the benefit of the individual are considered income to the individual; and
3. any other payments from the trust are considered to be assets that are transferred. The look back period for transfers is sixty months (See Part 15, Section 1.1).

When real property is transferred to a revocable trust, it is considered to be available to the individual because it is accessible.

Effective with transfers on or after 9/1/02, a primary residence, while an available asset, cannot be exempted on the basis of an "intent to return" or as the residence of the community spouse because the property is not owned by the individual.

Similarly, property used to produce income is an available asset but is not exempted as income producing property because it is not owned by the individual.

E. Irrevocable Trusts - are trusts which cannot in any way be revoked by the individual or entity in (B) above.

In the case of irrevocable trusts:

1. if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual including a payment at a future date, the following rules apply:
   a. the portion of the corpus that could be paid to or for the benefit of the individual is a countable resource to the individual. The income produced by this portion of the corpus is also a countable resource to the individual.
   b. payments actually made from the corpus (or from income produced by the corpus) to or for the benefit of the individual are income to the individual.
   c. payments actually made from the corpus (or from income produced by the corpus), but not to or for the benefit of the individual, are a transfer of assets. The look back period is thirty-six months (See Part 15) for all of these payments made from the corpus before 2/8/06.

All payments made on or after 2/8/06 are subject to a sixty month look back period (See Part 15).

2. if no payment could be made under any circumstances to or for the benefit of the individual the following rules apply:
   a. the portion of the corpus from which no payment could be made to or for the benefit of the individual is considered to be an asset that has been transferred.

      Income on this portion of the corpus from which no payment could be made to or for the individual is also considered to be an asset that has been transferred.

      The look back period is sixty months (See Part 15).

   b. the date of the transfer is the date of the establishment of the trust or, if later, the date on which payment is unavailable to the individual.
   c. the value of the transfer includes any payments made after the trust is established or payment to the individual is unavailable.

F. Exemptions:
The following trusts are exempt from the provisions of (E) above. No transfer is considered to take place as a result of establishing the trust, except as indicated in 2. (below) relating to pooled trusts. The income and resources considered available to the individual are those made available by the trust.
   1. a trust containing the assets of an individual under age 65 who does or would meet the SSI criteria for disability if:
      a. the trust is established for the sole benefit of the individual by the individual's parent, grandparent, legal guardian or a court; and
      b. the state will receive all amounts remaining in the trust upon the death of the individual up to an amount equal to the total Medicaid paid on behalf of the individual after due payment of any legal obligations of trust.

This trust is considered to be established for the "sole benefit of" the individual if no other individual or entity can benefit from the assets transferred in any way whether at the time the trust is established or at any time in the future. A trust may provide for reasonable compensation to trustees to manage the trust and for beneficiaries after Medicaid has been reimbursed.

The trust may contain assets of individuals other than the disabled individual.

This exemption remains once the individual turns age 65 as long as there are no changes in the terms of the trust once the individual attains age 65. Any assets added as of age 65 are not subject to exemptions under (E) above.

2. a trust containing the assets of an individual who does or would meet the SSI criteria for disability if:
   a. the trust is established and managed by a non-profit association;
   b. a separate account is maintained for each beneficiary of the trust but for purposes of investment and management of funds, the trust pools these accounts;
   c. the accounts in the trust are established solely for the benefit of the disabled individual by the individual or the individual's parent, grandparent, legal guardian or by a court; and
   d. to the extent that amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the trust, the trust pays to the state an amount equal to the total amount of Medicaid paid on behalf of the beneficiary after due payment of any legal obligations of the trust.

   However, any assets added to the trust as of age 65 may be subject to a transfer penalty (see Part 15).

   A trust is considered to be established for the "sole benefit of" the individual if no other individual or entity can benefit from the assets transferred in any way whether at the time the trust is established or at any time in the future. A trust may provide for reasonable compensation to trustees to manage the trust and for beneficiaries after Medicaid has been reimbursed.

   An individual age 65 or older is not automatically considered to meet the SSI criteria for disability. This must be determined as in Part 6, Section 4.3.

3. trusts that are set up with retroactive SSI benefits awarded under the Sullivan v. Zebley, 493 U.S. 521 (1990) decision.

II. Trusts Established for the Individual by Someone Else -
With trusts that are set up for the individual by someone else including those that are set up by will, trust funds are available assets unless the terms of the trust make them unavailable.

If the trust is irrevocable, that is, no member of the assistance unit or any responsible relative residing in the home has the power to revoke the trust arrangement or change the name of the beneficiary, what is available to the client is what is made available according to the terms of the trust.

A. The terms of the trust may specify the amount/frequency and/or purposes for which the funds may be used or this may be left to the discretion of the trustee(s). The terms of the trust may use a combination of both trustee discretion and specific fund usage.
B. Of the funds left to trustee discretion, what is available to the client is whatever the trustee makes available.

C. Funds made available are considered as income or assets in accordance with applicable Medicaid eligibility rules for the situation.

D. If the terms of the trust restrict withdrawal by written approval of a judge of the courts, regular withdrawals will be treated as any other income. Irregular withdrawals, in order to be disregarded, must be used to supplement the needs of the person for whom the trust is drawn up.

Examples:

1. An individual has a trust fund that was established upon the death of his parents based on their will. From this he is to receive $500 from the interest each month and $10,000 every three years to buy a new vehicle. The monthly payments are income. The $10,000 is used to purchase an excluded asset (the old vehicle is traded in to purchase the new one).

   This trust is irrevocable in accordance with the provisions above. The terms of the trust specify the amount, frequency and for part of the payments (the $10,000) the purpose. Medicaid policy treats interest payments as income and excludes the vehicle as an asset.

2. A trust was set up for the individual by his father who is deceased. The individual is to receive $200 per month for as long as the fund lasts. The fund currently has $140,000. The individual can get all the funds in the trust if there is an emergency.

   The $200 per month is considered income as long as this represents interest income. The remainder of the fund is considered an asset (currently $140,000) since it can be accessed by the individual.

3. A trust is set up for the individual by her grandmother. It is irrevocable and the trustee has full discretion in disbursement of the funds (totaling $75,000) based on the needs of the individual.

   Since the trust is irrevocable, what is considered available to the individual is whatever the trustee, in her discretion, makes available.

Section 2.53 Vehicles

I. <u>For all categories:</u>
The following exclusions are applied in the manner most advantageous to the individual:

A. Exclude one vehicle which is used to provide transportation for the household, such as passenger cars, trucks, boats and special vehicles such as motorcycles, snowmobiles, animal drawn vehicles and even animals. This includes vehicles that are unregistered, inoperable or in need of repair.

B. A second vehicle is totally excluded regardless of value if it is:

   1. needed for employment or to seek employment;
   2. needed to secure medical treatment;

      Note: This exclusion does not apply to individuals residing in a nursing or residential care facility. These facilities are required to provide Medicaid eligible individual with any transportation needed to secure medical treatment.

3. modified for operation by a person with a disability or is modified for the transportation of a person with a disability; or
4. necessary because of climate, terrain, distance, or other similar factors, or to provide transportation to perform essential daily activities.

In order for an individual to have a second vehicle for reasons 1-4 above, they must show a need for two separate vehicles.

Examples:

- An individual lives on an island, leaves one car on the island and one car on the mainland to avoid having to transport a car on the ferry.
- An elderly applicant has two cars. An adult (or minor) child who lives with her uses one of the vehicles for work. The applicant needs the other vehicle to secure medical treatment.

II. <u>For Family - Related categories:</u>
The equity value of all the other vehicles will be used toward the asset limit. To determine the equity value:
   A. Determine the fair market value. This is the average trade-in value from “The National Automobile Dealers Association's (NADA) Used Car Guide Book”, making appropriate deductions as listed in the guide but do not add for options. A household’s estimate can be used for vehicles not listed in the car guide unless it appears unreasonable. Allowance can be made for a vehicle in less than average condition if true value is verified by a reliable source.
   B. Subtract from the fair market value the total amount owed on the vehicle in mortgages, liens and other debts.

III. For SSI - Related categories;
   A. If no vehicle is totally excluded, the fair market value in excess of $4500 is counted as an asset. The fair market value is established by using the "trade-in value" listed in the "National Automobile Dealers Association's (NADA) Used Car Guide". The individual may prove that the vehicle is worth less than the value listed by NADA by providing verification from two reliable sources.

      Note: This exclusion involves the fair market value and not the equity in the vehicle. For this reason the individual may wish to exclude the vehicle with the highest value and not the one with the most equity.

   B. Unless excluded, the equity value of any other vehicle is counted. For business vehicles see Section 2.37 of this Part.

      Examples:

      1. Sally and Jim have two vehicles that are not excluded. They have a Buick worth $7000 (FMV) on which they owe $6000.

They also have a Ford worth $5000 (FMV) that they own free and clear.

If the Buick is partially excluded they would be over assets.

$7000 (FMV/$1000 equity) - $4500 exclusion = $2500
$5000 (FMV and equity) Ford = $5000 countable

This results in countable assets of $7500 from these two vehicles.

If the Ford is partially excluded only $1500 would be counted against the asset limit.

$5000 (FMV and equity) Ford - $4500 exclusion = $500
$7000 (FMV/$1000 equity) Buick = $1000 countable

2. Mrs. Johnson has a five year old car that is not totally or partially excluded. The fair market value (FMV) is $6000. She still owes $5000 on this.

   $6000 (FMV) - $4500 exclusion = $1500 countable asset

   Even though the equity is only $1000, $1500 is counted as an asset, because of the fair market value.

Section 2.54 Veterans Payments for Vietnam Veterans' natural children - *excluded for all categories*

VA monthly payments made to or on behalf of Vietnam veterans' natural children regardless of their age or marital status for any disability resulting from spina bifida suffered by such children are excluded from income and resources. Interest earned on unspent payments is not excluded.

Section 2.55 Volunteer Service Programs – *excluded for all categories*

Any payment whether cash or in-kind made under the Domestic Volunteer Service Act Public Laws (93-113)

I. Title I - Corporation for National and Community Service (CNCS)(formerly ACTION)
   - AmeriCorps State and National, AmeriCorps NCCC, and AmeriCorps* VISTA
   - University Year for Action (UYA)
   - Special and Demonstration Volunteer Programs

II. Title II - National Older American Volunteer Programs which now include
   - Foster Grandparent Program
   - Senior Companion Program
   - Retired Senior Volunteer Program (RSVP)

III. Title III - **(**repealed and now contained within the Small Business Act)
   - Service Corps of Retired Executives (SCORE)
   - Active Corps of Executives (ACE)